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December 9, 2002

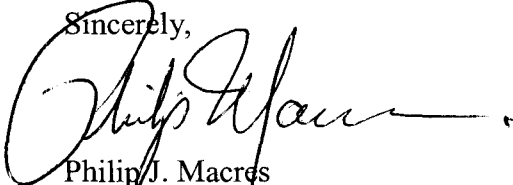
## **VIA ELECTRONIC FILING**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> H Street, SW, Portals  
Washington, DC 20554

**Re: Ex Parte**  
**CC Docket Nos. 01-338, 96-98, 98-147**

Dear Secretary Dortch:

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, this will provide notice that on December 6, 2002, Gavin McCarty, Chief Legal Officer, Globalcom, Inc., and the undersigned, on behalf of Globalcom, met with the following persons concerning issues in the above-captioned proceedings: Matthew Brill, Office of Commissioner Abernathy; Jordan Goldstein, Office of Commissioner Copps; Daniel Gonzalez, Office of Commissioner Martin; and William Maher, Jeffery Carlisle, Tamara Priess, Scott Bergman, Judith Nitsche, Jeremy Miller, Deena Shetler, and Uzoma Onyeije Competition Policy Division, Wireline Competition Bureau. During the meetings, we presented the views set forth in the attached document that relate to the ex parte letter Globalcom filed in the above-referenced proceedings dated November 11, 2002. In addition, we presented views regarding related issues that concern unbundling of local transport, EELs, commingling, and collocation.

Sincerely,  
  
Philip J. Macres

Attachment

cc: Matthew Brill  
Jordan Goldstein  
Daniel Gonzalez

Marlene H. Dortch

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William Maher

Jeffery Carlisle

Tamara Priess

Scott Bergman

Judith Nitsche

Jeremy Miller

Deena Shetler

Uzoma Onyeije

(all via e-mail)

Globalcom, Inc. *Ex Parte* Presentation Outline  
December 6, 2002

I. Introduction

A. Globalcom, Inc.

- A privately held competitive local exchange carrier headquartered in Chicago, Il, that provides local, interexchange and internet services to small and medium sized businesses primarily in Illinois and Wisconsin
- Serves over 15,000 customers using Nortel DMS 500 switch facility
- \$45M in annual revenues with positive net income
- Growth driven from operating revenues with \$5M outside equity investment – no significant debt
- Evolution from reseller to facilities based provider

B. Special Access services

- Opted into existing interconnection agreement with Ameritech Illinois in 1999
- Ordered special access services from Ameritech Illinois under FCC No. 2 Optional Payment Plan for network deployment and to support local and interexchange dedicated services – DS3s, PRIs, Local T1s, Internet T1s and integrated T1s
- Between 1999 and October 2001- No opportunity to order combinations of loop/transport, therefore ordered special access instead

C. EELs

- Illinois Telecommunications Act of 2001
  - Duty to provide combinations of UNEs that ILEC ordinarily combines

- Ameritech rejected orders where interoffice transport did not terminate at a collocation facility located in an ILEC CO
- Conversions
  - Attempted to convert special access circuits that were certified under the FCC Local Use Test beginning December 2001
  - Ameritech notified Globalcom of termination fees
  - Globalcom offered to maintain circuits for remainder of original special access term and Ameritech rejected offer
  - Globalcom could not justify 1.3M in termination fees and therefore could not convert circuits that were ordered under OPP
- May 2002- Globalcom files complaint with Illinois Commerce Commission (“ICC”)
  - ICC finds that Ameritech Illinois acted anti-competitively when it refused to provision EELs where interoffice transport terminated at Globalcom switch facility rather than a collocation facility located within an Ameritech CO
  - ICC Finds that Ameritech acted anti-competitively and that ICC No. 21 OPP termination penalty provision is inapplicable to conversions of special access circuits to combination of UNEs where Globalcom has agreed to maintain circuit for duration of original OPP term

## II. Proposal

A. Globalcom proposes that competitive carriers be permitted a “fresh look” at long term special access commitments *when a competitive carrier commits to maintain the converted UNE loop and transport combination for the remaining duration of the special access contract term.*

- Termination fee clauses in special access contracts are not designed for conversions
- Inequitable monetary windfall for the ILEC as they recover termination fees for circuits that the CLEC continues to use and TELRIC rates for the remainder of the contract term

- Unfairly increase operating expenses of competitive carriers and effectively remove the economic benefit of converting the circuits to UNEs
- It is patently unjust since CLECs ordered special access circuits *in lieu* of UNE combinations because the 8<sup>th</sup> Circuit got it wrong when it held that the FCC's Rule 315(c)-(f) violated the Act
  - ILECs are in effect receiving an economic windfall that is a direct result of the 8<sup>th</sup> Circuit's misinterpretation of the Act